

OAL 76-0771

24 February 1976

file
same

MEMORANDUM FOR: Director

FROM: Legislative Counsel

SUBJECT: Senate Government Operations Committee Proposal
for a New Standing Senate Committee, the "Committee
on Intelligence Activities"

The Senate Government Operations Committee on 24 February reported, subject to technical and clarifying amendments by the staff, a resolution establishing a new "Committee on Intelligence Activities." The resolution will now be considered by the Rules Committee which is under Senate instruction to report the resolution by 20 March. Senators at the final mark-up session today indicated they felt the issue would be considered on the floor shortly after 20 March. The following is a summary of the key provisions of the Committee's resolution:

(1) Membership - The Committee on Intelligence Activities will have 11 members with a majority-minority ratio permanently set at 6 members of the majority party and 5 members of the minority party. Members will be appointed by the caucuses of each party. Members cannot serve more than six consecutive years on the Committee, although after a period off the Committee a Senator will not be precluded from serving on it again. Members of the staff are also subject to a six-year limitation on service.

(2) Jurisdiction - The Committee's jurisdiction extends to CIA and the Director of Central Intelligence, DIA, NSA, other intelligence activities of DOD, plus intelligence activities of the Departments of State, Justice, and Treasury. In addition, the Committee has jurisdiction of the organization or reorganization of any intelligence function of the Government.

(3) Agency reporting to the Committee - The resolution provides that "it is the sense of the Senate" that all intelligence agencies keep the Committee fully and currently informed regarding their activities "including any significant anticipated activities." This latter phrase was adopted pursuant to an amendment by Senator Percy which also dropped the prior reporting requirement on covert action which had been urged by the Church Committee. The resolution also provides that it is the sense of the Senate that agencies should furnish to the Committee any information or document in their possession, custody, or control or witness in their employ, upon request. The Committee accepted an amendment by Senator Weicker requiring agencies to report immediately to the Committee any abuses or violations of an agency's charter which come to the attention of the agency.

(4) The Committee's authority to disclose - The Committee rejected the Executive branch position that the President should make the final determination whether information should be disclosed, and instead adopted the following procedure for disclosures by the Committee. If the Committee votes to publicly disclose any information provided by the Executive branch, they must so notify the President and cannot release the material for five days. If during the five-day period the President notifies the Committee that he objects to the disclosure, the Committee must again vote on the issue within three days after receiving the President's message. If the Committee is not persuaded by the President and again votes to disclose, such disclosure can be accomplished immediately unless three or more members of the Committee request that the issue be referred to the full Senate for decision. If the Committee votes against disclosure, three members of the Committee can also bring this decision before the full Senate for review. Upon such a request, the Senate shall consider the matter in secret session. The Senate has three options--approve the disclosure, disapprove the disclosure, or refer the matter back to the Committee for final determination. An amendment offered by Senator Nunn and accepted would ensure that the Senate reached a positive determination on one of these courses of action rather than avoid the issue as was done with the Senate Select Committee's "assassination report."

(5) Security procedures for staff employees - Each employee of the Committee must sign a secrecy agreement and receive an appropriate security clearance as determined by the Committee in consultation with the DCI.

(6) Sanctions for unauthorized disclosure - The resolution bans disclosure of information in the possession of the Committee relating to the lawful intelligence activities of the Government which the Committee has determined should not be disclosed. The Select Committee on Standards and Conduct (Ethics Committee) is instructed to conduct an investigation of any alleged unauthorized disclosure when requested to do so by five members of the Committee on Intelligence Activities or 16 other members of the Senate. The Ethics Committee shall report its findings to the Senate and where appropriate shall recommend action such as censure, removal from Committee membership or removal from office or employment. The Committee struggled with the fact that it was setting a different standard for handling intelligence information acquired by members of the Committee on Intelligence Activities than intelligence information acquired by other committees. While it concluded that it did not have jurisdiction to set rules for other committees, it would urge, through a letter from Chairman Ribicoff to Senator Cannon, Chairman of the Rules Committee, that the Rules Committee consider whether the provision adopted in this resolution might not be expanded to cover the full Senate.

(7) Annual authorization - The Committee, over the protest of the Agency, provided that no funds could be appropriated for intelligence activities until they had been authorized by the Committee on Intelligence Activities. Section 8 of the Central Intelligence Agency Act of 1949 contains continuing authorization authority and as a result Agency funds have never been the subject of an annual authorization bill.

(8) Liaison - The Committee on Intelligence Activities might permit a representative of the President to attend a closed meeting of the Committee.

(9) Committee study - The Committee is instructed to file a report with the Senate by July 1, 1977, concerning the following matters:

(a) effectiveness and appropriate organization of the foreign intelligence agencies;

(b) desirability of developing statutory charters for all intelligence agencies;

(c) the conduct of covert activities and the procedures by which Congress is informed on them;

(d) the adequacy of present secrecy laws;

(e) desirability of establishing a joint committee on intelligence or consolidating in other ways the efforts of Senate and House oversight committees; and

(f) whether intelligence budgets should be publicly disclosed.

(10) Transfer of Senate Select Committee materials - The Committee agreed on language which would give effect to agreements between the agencies and the Senate Select Committee on the disposition of materials provided the Select Committee. The resolution further provides that materials remaining in the possession of the Select Committee after disposition of those covered by agreements will become the property of the Committee on Intelligence Activities.

(11) Amendment to Hughes-Ryan Foreign Assistance Act Reporting Requirement - The Agency sought to have the Committee report a bill amending Section 662 (the Hughes-Ryan amendment) of the Foreign Assistance Act of 1961, in addition to reporting its resolution establishing a new committee. However, the Chairman ruled that such a proposal was not in order. Senator Percy then announced his intention to introduce a bill to restrict the reporting requirements of the Foreign Assistance Act on the Senate side to the Committee on Intelligence Activities and Committee on Appropriations. Senator Ribicoff said he would co-sponsor this legislation.

[Redacted Signature]

George L. Cary
Legislative Counsel

STA

Summary of Key Provisions of Senate Resolution
Establishing the Committee on Intelligence Activities

1. Membership - total 11.
6 of majority party, 5 of minority party
6-year limit on consecutive membership
2. Jurisdiction - CIA, DIA, NSA, other intelligence activities of
DOD, intelligence activities of State, Justice, and Treasury
3. Agency reporting to committee
Agencies should keep committee "fully and currently informed"
of all activities, including "significant anticipated activities."
Agencies should report abuses to committee immediately upon
discovery and to provide documents, information, or witnesses,
upon request.
4. Committee's authority to disclose
Committee can disclose any information, over objections
of President. Procedures require notification of President
of intent to disclose and waiting period. Three members of
Committee can force referral of the question to the full Senate.
5. Security procedures for staff employees
Secrecy agreements and security clearances
6. Sanctions for unauthorized disclosure
Ban on unauthorized disclosure. Ethics Committee will
investigate unauthorized disclosures if requested by 5
members of Committee or 16 other Senators. Ethics
Committee can recommend censure, loss of committee
membership, or expulsion.
7. Annual authorization
Senate cannot consider appropriation of funds to agencies
unless funds previously authorized by Committee on
Intelligence Activities.
8. Liaison
Committee can permit a representative of the President
to attend closed committee meetings
9. Committee study
Committee directed to report to Senate by July, 1977, on
several key intelligence issues.
10. Transfer of Senate Select Committee documents
Those not covered by agreements with agencies will be
turned over to Committee.
11. Hughes-Ryan
Senator Percy to introduce a bill restricting covert action
reports in the Senate to the new committee plus Appropriations
Committee.